

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Marianas Cablevision, Inc.	)	File No. EB-02-TS-383
	)	
Operator of Cable Systems in:	)	
	)	
The Commonwealth of Northern Mariana	)	
Islands of Saipan and Rota	)	
	)	
Request for Waiver of Section 11.11(a) of the	)	
Commission's Rules	)	

**ORDER**

**Adopted: July 9, 2003****Released: July 14, 2003**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant Marianas Cablevision, Inc. ("MCV") a temporary, 36-month waiver of Section 11.11(a) of the Commission's Rules ("Rules") for the two above-captioned cable television systems. Section 11.11(a) requires cable systems serving more than 5,000 but fewer than 10,000 subscribers from a headend to install Emergency Alert System ("EAS") equipment and begin providing EAS audio and video messages on all channels by October 1, 2002.<sup>1</sup> Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level EAS messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.<sup>2</sup> In 1994, the Commission adopted rules requiring cable systems to participate in EAS.<sup>3</sup> In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.<sup>4</sup> The

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<sup>1</sup> 47 C.F.R. § 11.11(a).

<sup>2</sup> Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations ...." 47 U.S.C. § 544(g).

<sup>3</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) ("First Report and Order"), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

<sup>4</sup> *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System*,

Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).<sup>5</sup> However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.<sup>6</sup> In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.<sup>7</sup> The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.<sup>8</sup>

3. On August 1, 2002, MCV filed a request for temporary, 36-month waivers of Section 11.11(a) for the two captioned cable television systems. In support of its request, MCV states that these small, cable systems are located in the Pacific Ocean approximately 6,000 miles from Los Angeles, California. MCV also states that the Saipan headend serves approximately 6,500 subscribers in the communities of Saipan and Tinian and the Rota headend serves approximately 450 subscribers in the community of Rota. Based on price quotes provided by EAS equipment manufacturers, MCV estimates that it would cost approximately \$34,750 to install EAS equipment at the two systems. MCV asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2000 and 2001 in support of this assertion. In addition, MCV submits that there are no sources transmitting live video signals to the Mariana Islands and because it is beyond the footprint of U.S. domestic satellites, the satellite feeds that MCV receives are from other countries. MCV also submits that it transmits costly videotaped programming, which is delayed one week from its domestic presentation in the U.S. West Coast. MCV notes that although the Mariana Island radio stations receive emergency weather messages transmitted by NOAA radio, there is no over-the-air reception of television broadcast service.

4. The EAS system in the Marianas is in a major state of flux. EAS officials from the Marianas are working with EAS staff at the FCC and Primary Entry Point staff from the Department of Homeland Security, Federal Emergency Management Agency (FEMA) to identify a primary entry point for the Marianas and ensure the creation of a functioning EAS system.

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*Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) ("*Second Report and Order*").

<sup>5</sup> *Id.* at 15512-13.

<sup>6</sup> *Id.* at 15516-15518.

<sup>7</sup> *Id.* at 15513.

<sup>8</sup> *Id.* at 15513, n. 59.

5. Based upon our review of the financial data and other information submitted by MCV, and the present state of flux of the EAS system in the Marianas, we conclude that temporary, 36 month waivers of Section 11.11(a) for the two captioned cable systems are warranted.<sup>9</sup> In particular, we find that the estimated \$34,750 cost of EAS equipment for this small cable system could impose a financial hardship on MCV.

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,<sup>10</sup> Marianas Cablevision, Inc. **IS GRANTED** a waiver of Section 11.11(a) of the Rules for the two captioned cable television systems until October 1, 2005.

7. **IT IS FURTHER ORDERED** that Marianas Cablevision, Inc. place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Marianas Cablevision, Inc., John Wells King, Esq., Garvey, Schubert & Barer, Fifth Floor, 1000 Potomac Street, N.W., Washington, DC 20007-3501.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey  
Chief, Technical and Public Safety Division  
Enforcement Bureau

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<sup>9</sup> The waivers will extend from October 1, 2002 until October 1, 2005. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

<sup>10</sup> 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.